820, and the bank is liable only if it aids in the misappropriation. *Loring* v. *Brodie,* 134 Mass. 453. The check in the principal case is unusual in that it gives notice of a separate trust fund in another bank. The notice of this fact would seem to require more care by a bank than an ordinary check to or by a trustee.

BANKS AND BANKING—DEPOSIT SLIP HEADED BY MISTAKE IN ANOTHER'S NAME—BANKBOOK DOES NOT CONTROL.—A customer of a bank, by mistake, made out his deposit on a slip headed with the name of another customer. On presentation of his checks with his own bankbook and this deposit slip, the bank entered the amount in his bankbook, but the deposit was credited to the account of the other customer. On discovering the mistake the owner of the bankbook sued the bank for the amount of the checks. *Held,* he cannot recover, as the bank was not liable for negligence because the customer had made the first mistake, and the deposit slip and not the bankbook should govern. *Schwartz* v. *The State Bank* (1909), 119 N. Y. Supp. 763.

This is apparently a case of first impression, and shows clearly the futility of reliance upon a bankbook to determine the liability of a bank to a depositor. Though some courts have attempted to make a bankbook entry conclusive against the bank, *Mechanics' and Farmers' Bank* v. *Smith,* 19 Johns. 115; *Hepburn* v. *Citizens Bank,* 2 La. Ann. 1007, the true rule is that the bankbook is only prima facie evidence, is no more than a receipt, always open to explanation. ZANE, BANKS AND BANKING, § 132, p. 208; 1 MORSE, BANKS AND BANKING, Ed. 4, §291, p. 544. Following this rule checks entered to a depositor's credit will be charged back if found worthless on attempted collection, *Union Safe Dep. Bank v. Strauch,* 20 Pa. Super. Ct. 196, and in case of garnishment the name in which a deposit stands is only presumptive evidence of ownership. As it is customary to make deposits to another person, *Andrews* v. *State Bank,* 9 N. D. 325, 83 N. W. 235, and the name on the deposit slip is evidence of that intention, the ruling in the principal case seems based upon sound authority.

CONSTITUTIONAL LAW—FREEDOM TO CONTRACT—MASTER AND SERVANT—REGULATING HOURS OF SERVICE.—Defendant was convicted of having suffered and permitted certain employes to work in his cake and bread bakery for more than six days in one week, in violation of § 10,088, Rev. St. 1899. The statute provides, "That no employe shall be required, permitted, or suffered to work in a biscuit, bread, pastry or cake bakery, or other bakery or confectionery establishment in this state, more than six days in one week." *Held,* that the statute was unconstitutional. *State* v. *Miksicek* (1910), — Mo. —, 125 S. W. 507.

In reaching its conclusion the court construed the statute to be in violation of Art. 2, § 4, and Art. 2, § 30 of the Missouri Constitution; and Art. 14, § 1, Const. U. S. Amend. The sections from the Missouri Constitution referred to are: " * * * that all persons have a natural right to life, liberty and the enjoyment of the gains of their own industry * * *"; and "that no person shall be deprived of life, liberty or property, without due